

Part 20.30H Variance to the Shoreline Master Program

20.30H.110 Scope.

This Part 20.30H establishes the procedure and criteria that the City will use in making a decision upon an application for a variance to the provisions of the Shoreline Master Program.

20.30H.115 Applicability.

This part applies to each application for a variance to the provisions of the Shoreline Master Program.

20.30H.120 Purpose.

The purpose of a variance to the Shoreline Master Program is to grant relief to specific bulk, dimensional or performance standards set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the policies of the Shoreline Management Act.

20.30H.125 Who may apply.

The property owner may apply for a variance to the provisions of the Shoreline Master Program.

20.30H.130 Limitation on filing.

An application for a variance to the Shoreline Master Program will not be accepted for filing unless accompanied by a complete application for a Substantial Development Permit (see LUC 20.25E.040).

20.30H.155 Decision criteria.

The City may approve or approve with modifications an application for a variance to the Shoreline Master Program if:

- A. Denial of the variance would result in thwarting the policy of RCW 90.58.020; and
- B. The applicant has demonstrated extraordinary circumstances and the public interest will suffer no substantial detrimental effect; and
- C. The strict application of the bulk, dimensional or performance standards of the Master Program preclude or significantly interfere with a reasonable permitted use of the property; and
- D. The hardship described in subsection C of this section is specifically related to the property and is the result of unique conditions such as irregular lot shape or natural features and the application of the Master Program and not, for example, deed restrictions or the applicant's own actions; and
- E. The design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation; and

F. The variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area and will be the minimum necessary to afford relief; and

G. If the development will be located either waterward of the ordinary high water mark or in a marsh, bog or swamp designated pursuant to Chapter 173-22 WAC:

1. In place of subsection C of this section, the strict application of the bulk, dimensional or performance standards of the Master Program preclude a reasonable permitted use of the property, and

2. The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

20.30H.160 Transmittal to Department of Ecology/Attorney General.

Pursuant to WAC 173-14-090 and 173-14-130, the Director shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the Director's action on a variance to the Shoreline Master Program:

- A. The original application; and
- B. An affidavit of public notice; and
- C. A copy of the approved site plan; and
- D. A vicinity map; and
- E. A copy of the approved variance to the Shoreline Master Program and Substantial Development Permits. (Ord. 4973, 3-3-97, § 806; Ord. 4816, 12-4-95, § 906)

20.30H.165 Effective date.

Notwithstanding the provisions of LUC 20.35.200 et seq., a variance to the Shoreline Master Program is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130. (Ord. 4973, 3-3-97, § 807; Ord. 4816, 12-4-95, § 907)